

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The State Treasurer Act is amended by changing Section 16.6 as follows:

(15 ILCS 505/16.6)

Sec. 16.6. ABLE account program.

(a) As used in this Section:

"ABLE account" or "account" means an account established for the purpose of financing certain qualified expenses of eligible individuals as specifically provided for in this Section and authorized by Section 529A of the Internal Revenue Code.

"ABLE account plan" or "plan" means the savings account plan provided for in this Section.

"Account administrator" means the person or entity selected by the State Treasurer to administer the daily operations of the ABLE account plan and provide marketing, recordkeeping, investment management, and other services for the plan.

"Aggregate account balance" means the amount in an account on a particular date or the fair market value of an account on a particular date.

"Beneficiary" means the ABLE account owner.

~~"Board" means the Illinois State Board of Investment.~~

"Contracting state" means a state without a qualified ABLE program which has entered into a contract with Illinois to provide residents of the contracting state access to a qualified ABLE program.

"Designated representative" means a person who is authorized to act on behalf of an account owner. An account owner is authorized to act on his or her own behalf unless the account owner is a minor or the account owner has been adjudicated to have a disability so that a guardian has been appointed. A designated representative acts in a fiduciary capacity to the account owner. The State Treasurer shall recognize the following a person as a designated representative without appointment by a court ~~in the following order of priority:~~

(1) The account owner's guardian of the person, plenary guardian of the estate, ~~or the account owner's~~ limited guardian of financial or contractual matters, or any other State-appointed guardian. A ~~Any~~ guardian acting in this capacity shall not be required to seek court approval for any ABLE account activity ~~qualified distributions~~.

(2) The agent named by the account owner in a property power of attorney recognized as a statutory short form power of attorney for property.

(3) Such individual or entity that the account owner so

designates in writing, in a manner to be established by the State Treasurer.

(4) Such other individual or entity designated by the State Treasurer pursuant to its rules.

"Disability certification" has the meaning given to that term under Section 529A of the Internal Revenue Code.

"Eligible individual" has the meaning given to that term under Section 529A of the Internal Revenue Code.

"Participation agreement" means an agreement to participate in the ABLE account plan between an account owner and the State, through its agencies and the State Treasurer.

"Qualified disability expenses" has the meaning given to that term under Section 529A of the Internal Revenue Code.

"Qualified withdrawal" or "qualified distribution" means a withdrawal from an ABLE account to pay the qualified disability expenses of the beneficiary of the account.

(b) Establishment of the ABLE Program. The "Achieving a Better Life Experience" or "ABLE" account program is hereby created and shall be administered by the State Treasurer. The purpose of the ABLE program plan is to encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life, and to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through

private insurance, federal and State medical and disability insurance, the beneficiary's employment, and other sources. Under the plan, a person may make contributions to an ABLE account to meet the qualified disability expenses of the designated beneficiary of the account. The plan must be operated as an accounts-type plan that permits persons to save for qualified disability expenses incurred by or on behalf of an eligible individual.

(c) Promotion of the ABLE Program. The State Treasurer shall promote awareness of the availability and advantages of the ABLE account plan as a way to assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities. ~~The cost of these promotional efforts shall not be funded with fees imposed on participants by the State Treasurer.~~

~~The State Treasurer shall not accept contributions for ABLE accounts under this Section until the Internal Revenue Service has issued its final regulations or interim guidance concerning ABLE accounts.~~

~~A separate account must be maintained for each beneficiary for whom contributions are made, and no more than one account shall be established per beneficiary. If an ABLE account is established for a designated beneficiary, no account subsequently established for such beneficiary shall be treated as an ABLE account. The preceding sentence shall not apply in the case of an ABLE account established for purposes of a~~

~~rollover as permitted under Section 529A of the Internal Revenue Code.~~

(d) Availability of the ABLE Program. An ABLE account may be established under this Section for a designated beneficiary who is a resident of Illinois, a resident of a contracting state, or a resident of any other state.

~~Prior to the establishment of an ABLE account, an account owner must provide documentation to the State Treasurer that the account beneficiary is an eligible individual.~~

Annual contributions to an ABLE account on behalf of a beneficiary are subject to the requirements of subsection (b) of Section 529A of the Internal Revenue Code. No person may make a contribution to an ABLE account if such a contribution would result in the aggregate account balance of an ABLE account exceeding the account balance limit authorized under Section 529A of the Internal Revenue Code. The Treasurer shall review the contribution limit at least annually. A separate account must be maintained for each beneficiary for whom contributions are made, and no more than one account shall be established per beneficiary. If an ABLE account is established for a designated beneficiary, no account subsequently established for such beneficiary shall be treated as an ABLE account. The preceding sentence shall not apply in the case of an ABLE account established for purposes of a rollover as permitted under Sections 529 and 529A of the Internal Revenue Code.

(e) Administration of the ABLE Program. The State Treasurer shall administer the plan, including accepting and processing applications, maintaining account records, making payments, and undertaking any other necessary tasks to administer the plan, including the appointment of an account administrator. The State Treasurer may contract with one or more third parties to carry out some or all of these administrative duties, including, but not limited to, providing investment management services, incentives, and marketing the plan. The State Treasurer may enter into agreements with other states to either allow Illinois residents to participate in a plan operated by another state or to allow residents of other states to participate in the Illinois ABLE plan.

(f) Fees. ~~In designing and establishing the plan's requirements and in negotiating or entering into contracts with third parties under this Section, the State Treasurer shall consult with the Board.~~ The State Treasurer may ~~shall~~ establish fees to be imposed on participants to cover ~~recover~~ the costs of administration, recordkeeping, and investment management. The State Treasurer must use his or her best efforts to keep these fees as low as possible, consistent with efficient administration.

(g) The Illinois ABLE Accounts Administrative Fund. The Illinois ABLE Accounts Administrative Fund is created as a nonappropriated trust fund in the State treasury. ~~The State Treasurer shall use moneys in the Administrative Fund to pay~~

~~for administrative expenses he or she incurs in the performance of his or her duties under this Section.~~ The State Treasurer shall use moneys in the Administrative Fund to cover administrative expenses incurred under this Section. The Administrative Fund may receive any grants or other moneys designated for administrative purposes from the State, or any unit of federal, state, or local government, or any other person, firm, partnership, or corporation. Any interest earnings that are attributable to moneys in the Administrative Fund must be deposited into the Administrative Fund. Any fees established by the State Treasurer to cover ~~recover~~ the costs of administration, recordkeeping, and investment management shall be deposited into the Administrative Fund.

Subject to appropriation, the State Treasurer may pay administrative costs associated with the creation and management of the plan until sufficient assets are available in the Administrative Fund for that purpose.

(h) Privacy. Applications for accounts, account owner data, account data, and data on beneficiaries of accounts are confidential and exempt from disclosure under the Freedom of Information Act.

~~(c) The State Treasurer may invest the moneys in ABLE accounts in the same manner and in the same types of investments provided for the investment of moneys by the Board. To enhance the safety and liquidity of ABLE accounts, to ensure the diversification of the investment portfolio of accounts,~~

~~and in an effort to keep investment dollars in the State, the State Treasurer may make a percentage of each account available for investment in participating financial institutions doing business in the State, except that the accounts may be invested without limit in investment options from open ended investment companies registered under Section 80a of the federal Investment Company Act of 1940. The State Treasurer may contract with one or more third parties for investment management, recordkeeping, or other services in connection with investing the accounts.~~

(i) Investment Policy. The Treasurer ~~account administrator~~ shall ~~annually~~ prepare and adopt a written statement of investment policy that includes a risk management and oversight program which shall be reviewed annually and posted on the Treasurer's website prior to implementation. The risk management and oversight program shall be designed to ensure that an effective risk management system is in place to monitor the risk levels of the ABLE plan, to ensure that the risks taken are prudent and properly managed, to provide an integrated process for overall risk management, and to assess investment returns as well as risk to determine if the risks taken are adequately compensated compared to applicable performance benchmarks and standards. To enhance the safety and liquidity of ABLE accounts, to ensure the diversification of the investment portfolio of accounts, and in an effort to keep investment dollars in the State, the State Treasurer may make a

percentage of each account available for investment in participating financial institutions doing business in the State, except that the accounts may be invested without limit in investment options from open-ended investment companies registered under Section 80a of the federal Investment Company Act of 1940. The State Treasurer may contract with one or more third parties for investment management, recordkeeping, or other services in connection with investing the accounts.

~~The State Treasurer may enter into agreements with other states to either allow Illinois residents to participate in a plan operated by another state or to allow residents of other states to participate in the Illinois ABLE plan.~~

(j) Investment restrictions. ~~(d)~~ The State Treasurer shall ensure that the plan meets the requirements for an ABLE account under Section 529A of the Internal Revenue Code. The State Treasurer may request a private letter ruling or rulings from the Internal Revenue Service and must take any necessary steps to ensure that the plan qualifies under relevant provisions of federal law. Notwithstanding the foregoing, any determination by the Secretary of the Treasury of the United States that an account was utilized to make non-qualified distributions shall not result in an ABLE account being disregarded as a resource.

(k) Contributions. A person may make contributions to an ABLE account on behalf of a beneficiary. Contributions to an account made by persons other than the account owner become the property of the account owner. Contributions to an account

shall be considered as a transfer of assets for fair market value. A person does not acquire an interest in an ABLE account by making contributions to an account. A contribution to any account for a beneficiary must be rejected if the contribution would cause either the aggregate or annual account balance of the account to exceed the limits imposed by Section 529A of the Internal Revenue Code.

Any change in account owner must be done in a manner consistent with Section 529A of the Internal Revenue Code.

(l) Notice. Notice of any proposed amendments to the rules and regulations shall be provided to all owners or their designated representatives prior to adoption. Amendments to rules and regulations shall apply only to contributions made after the adoption of the amendment. Amendments to this Section automatically amend the participation agreement. Any amendments to the operating procedures and policies of the plan shall automatically amend the participation agreement after adoption by the State Treasurer.

(m) Plan assets. All assets of the plan, including any contributions to accounts, are held in trust for the exclusive benefit of the account owner and shall be considered spendthrift accounts exempt from all of the owner's creditors. The plan shall provide separate accounting for each designated beneficiary sufficient to satisfy the requirements of paragraph (3) of subsection (b) of Section 529A of the Internal Revenue Code. Assets must be held in either a state trust fund

outside the State treasury, to be known as the Illinois ABLE plan trust fund, or in accounts with a third-party provider selected pursuant to this Section. Amounts contributed to ABLE accounts shall not be commingled with State funds and the State shall have no claim to or against, or interest in, such funds.

Plan assets are not subject to claims by creditors of the State and are not subject to appropriation by the State. Payments from the Illinois ABLE account plan shall be made under this Section.

The assets of ABLE accounts and their income may not be used as security for a loan.

(n) Taxation. The assets of ABLE accounts and their income and operation shall be exempt from all taxation by the State of Illinois and any of its subdivisions to the extent exempt from federal income taxation. The accrued earnings on investments in an ABLE account once disbursed on behalf of a designated beneficiary shall be similarly exempt from all taxation by the State of Illinois and its subdivisions to the extent exempt from federal income taxation, so long as they are used for qualified expenses.

Notwithstanding any other provision of law that requires consideration of one or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount, including earnings thereon, in the ABLE

account of such individual, any contributions to the ABLE account of the individual, and any distribution for qualified disability expenses shall be disregarded for such purpose with respect to any period during which such individual maintains, makes contributions to, or receives distributions from such ABLE account.

(o) Distributions. ~~(e)~~ The account owner or the designated representative of the account owner may make ~~request that~~ a qualified distribution ~~be made~~ for the benefit of the account owner. Qualified distributions shall be made for qualified disability expenses allowed pursuant to Section 529A of the Internal Revenue Code. Qualified distributions must be withdrawn proportionally from contributions and earnings in an account owner's account on the date of distribution as provided in Section 529A of the Internal Revenue Code. Unless prohibited by federal law, upon the death of a designated beneficiary, proceeds from an account may be transferred to the estate of a designated beneficiary, or to an account for another eligible individual specified by the designated beneficiary or the estate of the designated beneficiary. An agency or instrumentality of the State may not seek payment under subsection (f) of Section 529A of the federal Internal Revenue Code from the account or its proceeds for benefits provided to a designated beneficiary.

(p) Rules. ~~(f)~~ The State Treasurer may adopt rules to carry out the purposes of this Section. The State Treasurer shall

further have the power to issue peremptory rules necessary to ensure that ABLE accounts meet all of the requirements for a qualified state ABLE program under Section 529A of the Internal Revenue Code and any regulations issued by the Internal Revenue Service.

(Source: P.A. 99-145, eff. 1-1-16; 99-563, eff. 7-15-16; 100-713, eff. 8-3-18.)

Section 10. The Probate Act of 1975 is amended by changing Sections 11-13, 11a-17, and 11a-18 as follows:

(755 ILCS 5/11-13) (from Ch. 110 1/2, par. 11-13)

Sec. 11-13. Duties of guardian of a minor. Before a guardian of a minor may act, the guardian shall be appointed by the court of the proper county and, in the case of a guardian of the minor's estate, the guardian shall give the bond prescribed in Section 12-2. Except as provided in Section 11-13.1 and Section 11-13.2 with respect to the standby or short-term guardian of the person of a minor, the court shall have control over the person and estate of the ward. Under the direction of the court:

(a) The guardian of the person shall have the custody, nurture and tuition and shall provide education of the ward and of his children, but the ward's spouse may not be deprived of the custody and education of the spouse's children, without consent of the spouse, unless the court finds that the spouse

is not a fit and competent person to have such custody and education. If the ward's estate is insufficient to provide for the ward's education and the guardian of his person fails to provide education, the court may award the custody of the ward to some other person for the purpose of providing education. If a person makes a settlement upon or provision for the support or education of a ward and if either parent of the ward is dead, the court may make such order for the visitation of the ward by the person making the settlement or provision as the court deems proper. The guardian of the minor shall inform the court of the minor's current address by certified mail, hand delivery, or other method in accordance with court rules within 30 days of any change of residence.

(a-5) The guardian of estate, or the guardian of the person if a guardian of the estate has not been appointed, may, without an order of court, open, maintain, and transfer funds to an ABLE account on behalf of the ward to provide for the ward as specified under Section 16.6 of the State Treasurer Act.

(b) The guardian or other representative of the ward's estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward, his children, and persons related by blood or marriage who are dependent upon or entitled to support from him, or for any

other purpose which the court deems to be for the best interests of the ward, and the court may approve the making on behalf of the ward of such agreements as the court determines to be for the ward's best interests. The representative may make disbursement of his ward's funds and estate directly to the ward or other distributee or in such other manner and in such amounts as the court directs. If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the application for leave to invest or expend the ward's funds or estate, together with a copy of the petition and proposed order, shall be given to the Veterans' Administration Regional Office in this State at least 7 days before the hearing on the application. The court, upon petition of a guardian of the estate of a minor, may permit the guardian to make a will or create a revocable or irrevocable trust for the minor that the court considers appropriate in light of changes in applicable tax laws that allow for minimization of State or federal income, estate, or inheritance taxes; however, the will or trust must make distributions only to the persons who would be entitled to distributions if the minor were to die intestate and the will or trust must make distributions to those persons in the same amounts to which they would be entitled if the minor were to die intestate.

(c) Upon the direction of the court which issued his

letters a representative may perform the contracts of his ward which were legally subsisting at the time of the commencement of the guardianship. The court may authorize the guardian to execute and deliver any bill of sale, deed or other instrument.

(d) The representative of the estate of a ward shall appear for and represent the ward in all legal proceedings unless another person is appointed for that purpose as representative or next friend. This does not impair the power of any court to appoint a representative or next friend to defend the interests of the ward in that court, or to appoint or allow any person as the next friend of a ward to commence, prosecute or defend any proceeding in his behalf. Any proceeding on behalf of a minor may be commenced and prosecuted by his next friend, without any previous authority or appointment by the court if the next friend enters bond for costs and files it in the court where the proceeding is pending. Without impairing the power of the court in any respect, if the representative of the estate of a minor and another person as next friend shall appear for and represent the minor in a legal proceeding in which the compensation of the attorney or attorneys representing the guardian and next friend is solely determined under a contingent fee arrangement, the guardian of the estate of the minor shall not participate in or have any duty to review the prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to participate in or review any determination of the

appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.

(e) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the minor, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the minor. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have a guardian appointed for the minor.

(f) The court may grant leave to the guardian of a minor child or children to remove such child or children from Illinois whenever such approval is in the best interests of such child or children. The guardian may not remove a minor from Illinois except as permitted under this Section and must seek leave of the court prior to removing a child for 30 days or more. The burden of proving that such removal is in the best interests of such child or children is on the guardian. When such removal is permitted, the court may require the guardian removing such child or children from Illinois to give reasonable security guaranteeing the return of such children.

The court shall consider the wishes of the minor's parent or parents and the effect of removal on visitation and the wishes of the minor if he or she is 14 years of age or older.

The court may not consider the availability of electronic communication as a factor in support of the removal of a child by the guardian from Illinois. The guardianship order may incorporate language governing removal of the minor from the State. Any order for removal, including one incorporated into the guardianship order, must include the date of the removal, the reason for removal, and the proposed residential and mailing address of the minor after removal. A copy of the order must be provided to any parent whose location is known, within 3 days of entry, either by personal delivery or by certified mail, return receipt requested.

Before a minor child is temporarily removed from Illinois for more than 48 hours but less than 30 days, the guardian shall inform the parent or parents of the address and telephone number where the child may be reached during the period of temporary removal and the date on which the child shall return to Illinois. The State of Illinois retains jurisdiction when the minor child is absent from the State pursuant to this subsection. The guardianship order may incorporate language governing out-of-state travel with the minor.

(Source: P.A. 98-1082, eff. 1-1-15; 99-207, eff. 7-30-15.)

(755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

Sec. 11a-17. Duties of personal guardian.

(a) To the extent ordered by the court and under the direction of the court, the guardian of the person shall have

custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate, but the ward's spouse may not be deprived of the custody and education of the ward's minor and adult dependent children, without the consent of the spouse, unless the court finds that the spouse is not a fit and competent person to have that custody and education. The guardian shall assist the ward in the development of maximum self-reliance and independence. The guardian of the person may petition the court for an order directing the guardian of the estate to pay an amount periodically for the provision of the services specified by the court order. If the ward's estate is insufficient to provide for education and the guardian of the ward's person fails to provide education, the court may award the custody of the ward to some other person for the purpose of providing education. If a person makes a settlement upon or provision for the support or education of a ward, the court may make an order for the visitation of the ward by the person making the settlement or provision as the court deems proper. A guardian of the person may not admit a ward to a mental health facility except at the ward's request as provided in Article IV of the Mental Health and Developmental Disabilities Code and unless the ward has the capacity to consent to such admission as provided in Article IV of the Mental Health and Developmental Disabilities Code.

(a-3) If a guardian of an estate has not been appointed, the guardian of the person may, without an order of court, open, maintain, and transfer funds to an ABLE account on behalf of the ward and the ward's minor and adult dependent children as specified under Section 16.6 of the State Treasurer Act.

(a-5) If the ward filed a petition for dissolution of marriage under the Illinois Marriage and Dissolution of Marriage Act before the ward was adjudicated a person with a disability under this Article, the guardian of the ward's person and estate may maintain that action for dissolution of marriage on behalf of the ward. Upon petition by the guardian of the ward's person or estate, the court may authorize and direct a guardian of the ward's person or estate to file a petition for dissolution of marriage or to file a petition for legal separation or declaration of invalidity of marriage under the Illinois Marriage and Dissolution of Marriage Act on behalf of the ward if the court finds by clear and convincing evidence that the relief sought is in the ward's best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section.

(a-10) Upon petition by the guardian of the ward's person or estate, the court may authorize and direct a guardian of the ward's person or estate to consent, on behalf of the ward, to the ward's marriage pursuant to Part II of the Illinois Marriage and Dissolution of Marriage Act if the court finds by clear and convincing evidence that the marriage is in the

ward's best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section. Upon presentation of a court order authorizing and directing a guardian of the ward's person and estate to consent to the ward's marriage, the county clerk shall accept the guardian's application, appearance, and signature on behalf of the ward for purposes of issuing a license to marry under Section 203 of the Illinois Marriage and Dissolution of Marriage Act.

(b) If the court directs, the guardian of the person shall file with the court at intervals indicated by the court, a report that shall state briefly: (1) the current mental, physical, and social condition of the ward and the ward's minor and adult dependent children; (2) their present living arrangement, and a description and the address of every residence where they lived during the reporting period and the length of stay at each place; (3) a summary of the medical, educational, vocational, and other professional services given to them; (4) a resume of the guardian's visits with and activities on behalf of the ward and the ward's minor and adult dependent children; (5) a recommendation as to the need for continued guardianship; (6) any other information requested by the court or useful in the opinion of the guardian. The Office of the State Guardian shall assist the guardian in filing the report when requested by the guardian. The court may take such action as it deems appropriate pursuant to the report.

(c) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian has no power, duty, or liability with respect to any personal or health care matters covered by the agency. This subsection (c) applies to all agencies, whenever and wherever executed.

(d) A guardian acting as a surrogate decision maker under the Health Care Surrogate Act shall have all the rights of a surrogate under that Act without court order including the right to make medical treatment decisions such as decisions to forgo or withdraw life-sustaining treatment. Any decisions by the guardian to forgo or withdraw life-sustaining treatment that are not authorized under the Health Care Surrogate Act shall require a court order. Nothing in this Section shall prevent an agent acting under a power of attorney for health care from exercising his or her authority under the Illinois Power of Attorney Act without further court order, unless a court has acted under Section 2-10 of the Illinois Power of Attorney Act. If a guardian is also a health care agent for the ward under a valid power of attorney for health care, the guardian acting as agent may execute his or her authority under that act without further court order.

(e) Decisions made by a guardian on behalf of a ward shall be made in accordance with the following standards for decision making. Decisions made by a guardian on behalf of a ward may be

made by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian. Where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with the preferences of the ward. If the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, the decision shall be made on the basis of the ward's best interests as determined by the guardian. In determining the ward's best interests, the guardian shall weigh the reason for and nature of the proposed action, the benefit or necessity of the action, the possible risks and other consequences of the proposed action, and any available alternatives and their risks, consequences and benefits, and shall take into account any other information, including the views of family and friends, that the guardian believes the ward would have considered if able to act for herself or himself.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the person with a disability, the court may terminate or limit the authority of a standby or

short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the person with a disability. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the person with a disability.

(g) (1) Unless there is a court order to the contrary, the guardian, consistent with the standards set forth in subsection (e) of this Section, shall use reasonable efforts to notify the ward's known adult children, who have requested notification and provided contact information, of the ward's admission to a hospital or hospice program, the ward's death, and the arrangements for the disposition of the ward's remains.

(2) If a guardian unreasonably prevents an adult child, spouse, adult grandchild, parent, or adult sibling of the ward from visiting the ward, the court, upon a verified petition, may order the guardian to permit visitation between the ward and the adult child, spouse, adult grandchild, parent, or adult sibling. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section. The court shall not allow visitation if the court finds that the ward has capacity to evaluate and communicate decisions regarding visitation and expresses a desire not to have visitation with the petitioner. This subsection (g) does not apply to duly appointed public guardians or the Office of State Guardian.

(Source: P.A. 99-143, eff. 7-27-15; 99-821, eff. 1-1-17; 100-1054, eff. 1-1-19.)

(755 ILCS 5/11a-18) (from Ch. 110 1/2, par. 11a-18)

Sec. 11a-18. Duties of the estate guardian.

(a) To the extent specified in the order establishing the guardianship, the guardian of the estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward, his minor and adult dependent children, and persons related by blood or marriage who are dependent upon or entitled to support from him, or for any other purpose which the court deems to be for the best interests of the ward, and the court may approve the making on behalf of the ward of such agreements as the court determines to be for the ward's best interests. The guardian may make disbursement of his ward's funds and estate directly to the ward or other distributee or in such other manner and in such amounts as the court directs. If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the application for leave to invest or expend the ward's funds or estate, together with a copy of the petition and proposed order, shall be given to the

Veterans' Administration Regional Office in this State at least 7 days before the hearing on the application.

(a-5) The probate court, upon petition of a guardian, other than the guardian of a minor, and after notice to all other persons interested as the court directs, may authorize the guardian to exercise any or all powers over the estate and business affairs of the ward that the ward could exercise if present and not under disability. The court may authorize the taking of an action or the application of funds not required for the ward's current and future maintenance and support in any manner approved by the court as being in keeping with the ward's wishes so far as they can be ascertained. The court must consider the permanence of the ward's disabling condition and the natural objects of the ward's bounty. In ascertaining and carrying out the ward's wishes the court may consider, but shall not be limited to, minimization of State or federal income, estate, or inheritance taxes; and providing gifts to charities, relatives, and friends that would be likely recipients of donations from the ward. The ward's wishes as best they can be ascertained shall be carried out, whether or not tax savings are involved. Actions or applications of funds may include, but shall not be limited to, the following:

- (1) making gifts of income or principal, or both, of the estate, either outright or in trust;
- (2) conveying, releasing, or disclaiming his or her contingent and expectant interests in property, including

marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety;

(3) releasing or disclaiming his or her powers as trustee, personal representative, custodian for minors, or guardian;

(4) exercising, releasing, or disclaiming his or her powers as donee of a power of appointment;

(5) entering into contracts;

(6) creating for the benefit of the ward or others, revocable or irrevocable trusts of his or her property that may extend beyond his or her disability or life;

(7) exercising options of the ward to purchase or exchange securities or other property;

(8) exercising the rights of the ward to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any one or more of the following:

(i) life insurance policies, plans, or benefits,

(ii) annuity policies, plans, or benefits,

(iii) mutual fund and other dividend investment plans,

(iv) retirement, profit sharing, and employee welfare plans and benefits;

(9) exercising his or her right to claim or disclaim an elective share in the estate of his or her deceased spouse

and to renounce any interest by testate or intestate succession or by inter vivos transfer;

(10) changing the ward's residence or domicile; or

(11) modifying by means of codicil or trust amendment the terms of the ward's will or any revocable trust created by the ward, as the court may consider advisable in light of changes in applicable tax laws.

The guardian in his or her petition shall briefly outline the action or application of funds for which he or she seeks approval, the results expected to be accomplished thereby, and the tax savings, if any, expected to accrue. The proposed action or application of funds may include gifts of the ward's personal property or real estate, but transfers of real estate shall be subject to the requirements of Section 20 of this Act. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the ward or may be made to individuals or charities in which the ward is believed to have an interest. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the ward insofar as they can be ascertained, and if the ward's intentions cannot be ascertained, the ward will be presumed to favor reduction in the incidents of various forms of taxation and the partial distribution of his or her estate as provided in this subsection. The guardian shall not, however, be required to include as a beneficiary or fiduciary any person who he has reason to believe would be excluded by the ward. A

guardian shall be required to investigate and pursue a ward's eligibility for governmental benefits.

(a-6) The guardian may, without an order of court, open, maintain, and transfer funds to an ABLE account on behalf of the ward and the ward's minor and adult dependent children as specified under Section 16.6 of the State Treasurer Act.

(b) Upon the direction of the court which issued his letters, a guardian may perform the contracts of his ward which were legally subsisting at the time of the commencement of the ward's disability. The court may authorize the guardian to execute and deliver any bill of sale, deed or other instrument.

(c) The guardian of the estate of a ward shall appear for and represent the ward in all legal proceedings unless another person is appointed for that purpose as guardian or next friend. This does not impair the power of any court to appoint a guardian ad litem or next friend to defend the interests of the ward in that court, or to appoint or allow any person as the next friend of a ward to commence, prosecute or defend any proceeding in his behalf. Without impairing the power of the court in any respect, if the guardian of the estate of a ward and another person as next friend shall appear for and represent the ward in a legal proceeding in which the compensation of the attorney or attorneys representing the guardian and next friend is solely determined under a contingent fee arrangement, the guardian of the estate of the ward shall not participate in or have any duty to review the

prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to participate in or review any determination of the appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.

(d) Adjudication of disability shall not revoke or otherwise terminate a trust which is revocable by the ward. A guardian of the estate shall have no authority to revoke a trust that is revocable by the ward, except that the court may authorize a guardian to revoke a Totten trust or similar deposit or withdrawable capital account in trust to the extent necessary to provide funds for the purposes specified in paragraph (a) of this Section. If the trustee of any trust for the benefit of the ward has discretionary power to apply income or principal for the ward's benefit, the trustee shall not be required to distribute any of the income or principal to the guardian of the ward's estate, but the guardian may bring an action on behalf of the ward to compel the trustee to exercise the trustee's discretion or to seek relief from an abuse of discretion. This paragraph shall not limit the right of a guardian of the estate to receive accountings from the trustee on behalf of the ward.

(d-5) Upon a verified petition by the plenary or limited guardian of the estate or the request of the ward that is accompanied by a current physician's report that states the ward possesses testamentary capacity, the court may enter an

order authorizing the ward to execute a will or codicil. In so ordering, the court shall authorize the guardian to retain independent counsel for the ward with whom the ward may execute or modify a will or codicil.

(e) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian will have no power, duty or liability with respect to any property subject to the agency. This subsection (e) applies to all agencies, whenever and wherever executed.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the person with a disability, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the person with a disability. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the person with a disability.

(Source: P.A. 99-143, eff. 7-27-15; 99-302, eff. 1-1-16; 99-642, eff. 7-28-16.)

Section 99. Effective date. This Act takes effect upon becoming law.